

Doc Code:

PTO/SB/21 (09-06)

Approved for use through 03/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

4

Application Number

10/763,681

Filing Date

January 23, 2004

First Named Inventor

Atzeni, Salvatore

Art Unit

2878

Examiner Name

ALLEN, Stephone B.

Attorney Docket Number

25619/9

ENCLOSURES (Check all that apply)

☐ Fee Transmittal Form☐ Fee Attached☐ Amendment / Reply☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Reply to Missing Parts/ Incomplete Application☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a Provisional Application☐ Power of Attorney, Revocation Change of Correspondence Address☒ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s) _____☐ Landscape Table on CD☐ After Allowance Communication to TC☐ Appeal Communication to Board of Appeals and Interferences☐ Appeal Communication to TC (Appeal Notice, Brief, Reply)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s) (please identify below):

Acknowledgement Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Brown Rudnick Berlack Israels LLP

Signature

Printed name

Anthony H. Handal

Date

January 22, 2007

Reg. No.

26,275

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

Signature

Typed or printed name

Michelle A. Aiello

Date

January 22, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Patent Docket No. 25619/9

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Atzeni, Salvatore **EXAMINER:** ALLEN, Stephone B.
SERIAL NO.: 10/763,681 **ART UNIT:** 2878
FILED: January 23, 2004 **CONF. NO.:** 7482
FOR: MICROSCOPE FOR PERFORMING MULTIPLE FREQUENCY

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

By: Michelle A. Aiello
Michelle A. Aiello

January 22, 2007
Date

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER

01/26/2007 SPENB001 00000025-500369 10763681

01 EC-2014 65.00 DA

Dear Examiner:

Assignee of the above reference application, hereby disclaims the term of any patent issued in this case which would otherwise extend past, the expiration date of United States Patent Application No. 11/184,407 filed on July 19, 2005 and agrees that any patent granted on the present application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to the aforesaid United States Patent Application No. 11/184,407, this agreement to run with any patent granted on the present application and to be binding upon the grantee, its successors or assigns.

No disclaimer is made of any terminal part of any patent granted on the above-identified application prior to the expiration date of the full statutory term of any patent issuing from the aforesaid United States Patent Application No. 11/184,407 in the event that a patent issuing from

Patent Application No. 11/184,407 later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, are statutorily disclosed in whole or terminally disclaimed under 37 C.F.R. 1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to expiration of its statutory term except for the separation of legal title stated above.

The undersigned, an attorney of record in this application, is empowered to act on behalf of the assignee pursuant to 37 C.F.R. 1.321(a).

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issuing thereon.

Authorization is hereby given to charge Deposit Account No. 50-0369 in the amount of \$65.00 and any other necessary fees required by this paper pursuant to 37 C.F.R. 1.20(d) for filing this Terminal Disclaimer. FORM PTO/SB/25 IS HEREBY ATTACHED.

Respectfully submitted,

By: _____


Anthony H. Handal

Reg. No. 26,275

Attorney for Applicant(s)

Brown Rudnick Berlack Israels LLP

One Financial Center, Box IP

Boston, MA 02111

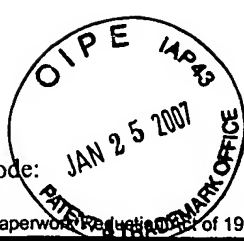
Tel: (617) 856-8349

Fax: 617-856-8201

Email: ip@brownrudnick.com

Dated: January 22, 2007

Doc Code:



PTO/SB/25 (09-06)

Approved for use through 03/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Project of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATION**

 Docket Number (Optional)
 25619/9

In re Application of: Atzeni, Salvatore

Application No.: 10/763,681

Filed: January 23, 2004

For: MICROSCOPE FOR PERFORMING MULTIPLE FREQUENCY

The owner*, Horiba Jobin Yvon, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend the expiration date of the full statutory term of any patent granted on pending **reference** Application 11/184,407 filed on July 19, 2005, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said **reference** application, "as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application," in the event that: any such patent: granted on the pending **reference** application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

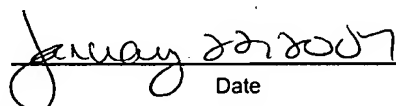
1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. 26,275


 Signature

Anthony H. Handal


 Date

Typed or printed name

212-209-4942

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
 Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

01/26/2007 SDENB081 00000025 10763681

01 FC:281 65.00 DA